

A Federal standards analysis pursuant to Executive Order No. 27 (1994) and P.L. 1995, c. 65 is not required concerning N.J.A.C. 19:20-2 because the rules are mandated by the provisions of N.J.S.A. 52:34-9.1 et seq., and are not subject to any Federal requirements or standards.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 19:20.

(a)

DELAWARE RIVER BASIN COMMISSION

Amendments to the Water Quality Regulations, Water Code, and Comprehensive Plan to Revise the Human Health Water Quality Criteria for PCBs in Zones 2 through 6 of the Delaware Estuary and Bay

Proposed: August 5, 2013, at 45 N.J.R. 1907(a).

Adopted: December 4, 2013, by the Delaware River Basin

Commission, Pamela M. Bush, Commission Secretary.

Filed: April 8, 2014, as R.2014 d.076.

Authority: Laws of 1961, Chapter 13, approved May 1, 1961 (Delaware River Basin Compact).

Effective Date: Thirty days from publication of the corresponding notice of final rulemaking in the Federal Register.

Summary: By Resolution No. 2013-8 on December 4, 2013, the Delaware River Basin Commission ("DRBC" or "Commission") approved amendments to the Commission's Water Quality Regulations, Water Code, and Comprehensive Plan to establish a uniform water quality criterion of 16 picograms per liter for polychlorinated biphenyls (PCBs) in the Delaware Estuary and Bay, DRBC Water Quality Management Zones 2 through 6, for the protection of human health from carcinogenic effects.

For Further Information Contact: Pamela M. Bush, Commission Secretary and Assistant General Counsel, by phoning 609-883-9500 Ext. 203, or by e-mail to pamela.bush@drbc.state.nj.us.

Supplementary Information: The Delaware River Basin Commission is a Federal-state regional agency charged with managing the water resources of the Delaware River Basin without regard to political boundaries. Its members are the governors of the four basin states – Delaware, New Jersey, New York, and Pennsylvania – and the North Atlantic Division Commander of the U.S. Army Corps of Engineers, representing the Federal government.

The Delaware River Basin Commission ("DRBC" or "Commission") is not subject to the requirements of the New Jersey Administrative Procedure Act. The purpose of this notice is to advise the public that duly adopted regulations of the Commission have been filed with the state in accordance with Section 14.2 of the Delaware River Basin Compact.

Notice of the proposed amendments appeared in the New Jersey Register (45 N.J.R. 1907(a)) on August 5, 2013, as well as in the Federal Register (78 FR 47241) on August 5, 2013, the Delaware Register of Regulations (17 DE Reg. 143) on August 1, 2013, the New York State Register (page 3) on August 14, 2013, and the Pennsylvania Bulletin (43 Pa.B. 4740) on August 17, 2013. Notice of the proposed changes also was published on the Commission's website on August 2, 2013. A public hearing was held on September 10, 2013, and written comments were accepted through September 20, 2013.

The uniform water quality criterion of 16 picograms per liter for polychlorinated biphenyls (PCBs) in the Delaware Estuary and Bay for the protection of human health from carcinogenic effects is the product of more than a decade of data-gathering, assessment, debate, and consensus-building involving dischargers, regulators, scientists, policy-makers, and other stakeholders from across the region. The criterion is the product of a rigorous application of the most current available data and methodology, including site-specific data on fish consumption, site-specific bioaccumulation factors, and the current U.S. Environmental Protection Agency (EPA) methodology for the development of human health criteria for toxic pollutants (see EPA-822-B-00-004, October

2000). The criterion replaces the Commission's current PCB criteria for the Estuary, which date from 1996. It supersedes less stringent state criteria in effect for Delaware Bay and eliminates the undue complexity associated with the application in tidal waters of criteria that vary by water quality zone.

In addition to proposing the new criterion, the Commission's notice of proposed rulemaking in August 2013 invited comment on a draft strategy for implementing the criterion for both point and non-point sources. Developed by the DRBC in partnership with the environmental agencies of the states of Delaware, New Jersey, and Pennsylvania, EPA Regions II and III and EPA Headquarters (collectively, "the co-regulators"), the draft strategy sets forth detailed approaches for reducing PCB loadings from point and non-point sources over the coming decades. A key objective of the strategy is to provide uniformity and a degree of certainty to National Pollutant Discharge Elimination System (NPDES) permits that will be issued by the states bordering the Estuary and Bay. Notably, no Commission action on the draft implementation strategy was or is proposed. As DRBC's notice of proposed rulemaking indicated, new total maximum daily loads ("Stage 2 TMDLs") for PCBs in the Delaware Estuary and Bay are expected to be established by EPA on behalf of the Estuary states following publication of this final rule. The strategy document will be included as an Appendix to the Stage 2 TMDL report when issued. Until Stage 2 TMDLs based upon the new criterion are established, the NPDES permitting authorities have indicated they intend to apply the existing permit approach, which was published as an appendix to the Stage 1 TMDLs for PCBs established by EPA Regions II and III for the Delaware Estuary in 2003 and for the Delaware Bay in 2006.

The affected section of the Commission's Water Code and Water Quality Regulations is Section 3.30, Table 6: Stream Quality Objectives for Carcinogens for the Delaware River Estuary and Bay. Specifically, in accordance with this final rule, for the parameter "PCBs (Total)," in the column headed "Freshwater Objectives (ug/l): Fish & Water Ingestion," the number "0.0000444" is replaced by "0.000016"; in the column headed "Freshwater Objectives (ug/l): Fish Ingestion Only," the number "0.0000448" is replaced by "0.000016"; and in the column headed "Marine Objectives (ug/l): Fish Ingestion Only," the number "0.0000079" is replaced by "0.000016".

The complete text of Resolution No. 2013-8, the Water Code, the Administrative Manual Part III - Water Quality Regulations, a basis and background document setting forth the technical basis for the new criterion, the response-to-comment document addressing comments received by DRBC on the proposed criterion and the draft implementation strategy, and additional documents concerning the control of PCBs in the Delaware Estuary all are available on the Commission's website, DRBC.net. Copies also may be obtained from the Commission's Secretary and Assistant General Counsel at the telephone number and email address listed above. A charge for printing and mailing may apply.

(b)

DELAWARE RIVER BASIN COMMISSION

Amendments to the Water Quality Regulations, Water Code, and Comprehensive Plan to Update Water Quality Criteria for pH

Proposed: October 7, 2013, at 45 N.J.R. 2201(a).

Adopted: December 4, 2013, by the Delaware River Basin

Commission, Pamela M. Bush, Commission Secretary.

Filed: April 8, 2014, as R.2014 d.077.

Authority: Laws of 1961, Chapter 13, approved May 1, 1961 (Delaware River Basin Compact).

Effective Date: Thirty days from publication of the corresponding notice of final rulemaking in the Federal Register.

Summary: By Resolution No. 2013-9 on December 4, 2013, the Delaware River Basin Commission ("DRBC" or "Commission")